

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Application of ACCENT DELIGHT
INTERNATIONAL LTD. and XITRANS FINANCE LTD.
for an Order Under 28 U.S.C. § 1782 to
Conduct Discovery for Use in Foreign Proceedings.

DECLARATION OF CARLO LOMBARDINI

Carlo Lombardini, under penalty of perjury, pursuant to 28 U.S.C. § 1746, declares that the following is true and correct:

1. I am an attorney in the firm of Poncet Turrettini Avocats in Geneva. I am Swiss counsel to Accent Delight International Ltd. and Xitrans Finance Ltd (together, "Petitioners").
2. In 2017, Petitioners initiated criminal proceedings and related civil claims against Yves Bouvier in the Canton of Bern. The matter was then transferred to the Canton of Geneva.
3. On February 8, 2018, the Public Prosecutor of Geneva interviewed Bouvier as an accused person in a criminal proceedings for frauds (ref. P/15576/2017).
4. Bouvier now has the status of an "accused" under article 111, paragraph 1 of the Swiss Code of Criminal Procedure ("SCCP").
5. Under article 158 of the SCCP, the public prosecutor is obligated to provide various warnings at the start of the first hearing with the accused, including the right to counsel and the right to remain silent. These warnings were given at the February 8 hearing.
6. The hearing will be the start of a full criminal investigation during which the public prosecutor is entitled to gather evidence.
7. Under article 115 of the SCCP, Petitioners are "persons suffering harm." Article 118 of the SCCP further provides: "A private claimant is a person suffering harm who expressly

declares that he or she wishes to participate in the criminal proceedings as a criminal or civil claimant. The filing of a criminal complaint is regarded as being equivalent to such a declaration.”

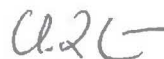
8. Because they filed a criminal complaint as persons suffering harm, Petitioners are parties to the criminal proceeding. Bouvier, as the accused, is also a party.

9. As parties to the criminal proceeding, Petitioners and Bouvier can submit documents to the Public Prosecutor.

10. Petitioners also have the right under article 147, paragraph 1 of the SCCP to be present when the public prosecutor and the courts are taking evidence and to ask questions of persons under examination.

11. Pursuant to article 318, paragraph 1 of the SCCP: “If the public prosecutor regards the investigation as completed, it shall issue a summary penalty order or give written notice to the parties . . . of the imminent conclusion of the investigation and inform them whether it is intended to bring charges or abandon the proceedings. At the same time, it shall allow the parties a period within which to submit requests for further evidence to be taken.”

Dated: February 8, 2018
Geneva, Switzerland



CARLO LOMBARDINI